

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

MINGLEMENT, INC., a Washington  
corporation,

Plaintiff,

v.

HEIRLOOM COFFEE, LLC, a Massachusetts  
domestic limited liability company,

Defendant.

CASE NO. 2:14-cv-01091

**COMPLAINT FOR TRADEMARK  
INFRINGEMENT, FALSE  
DESIGNATION OF ORIGIN, UNFAIR  
COMPETITION AND EQUITABLE  
RELIEF**

Plaintiff alleges:

**PARTIES**

1. Plaintiff, Minglement, Inc., is a corporation organized under the laws of the state of Washington, with a principal place of business at 19529 Vashon Highway, Vashon, Washington 98070.

2. Defendant, Heirloom Coffee, LLC, is a Massachusetts domestic liability company, with a principal place of business at 9 Jerome Street, Medford, Massachusetts 02155.

**JURISDICTION AND VENUE**

3. Heirloom Coffee, LLC is subject to the jurisdiction of this Court. This Court's jurisdiction arises from the fact that: (i) this is an action brought under the Trademark Laws of the United States, 15 U.S.C. §§ 1051 *et seq.*, jurisdiction being conferred by 15 U.S.C. § 1121 and 28 U.S.C. § 1331.

4. Venue is proper in this Court under 28 U.S.C. § 1391(b) in that a substantial part of the events or omissions giving rise to the claims occurred in this District and the Defendant is promoting, distributing and selling branded goods in this District.

**FACTS**

5. Plaintiff is the registrant and owner of record for U.S. Trademark Registration No. 3,209,774 for the trademark HEIRLOOM® in International Class 30 for coffee (*See* Exhibit A attached hereto). U.S. Trademark Registration No. 3,209,774 was registered on February 13, 2007, with a first use in commerce on December 1, 2005 and with declarations under Sections 8 and 15 of the Trademark Act being filed October 29, 2012. U.S. Trademark Registration No. 3,209,774 is valid and incontestable.

6. Plaintiff has continually used the mark HEIRLOOM® in commerce and in commerce governed by the Congress since as early as 2005 and the mark is presently being used on and in connection with the sale of coffee.

7. U.S. Trademark Registration No. 3,209,774 is valid and enforceable and has not been abandoned.

8. Defendant is doing business throughout the United States and in the state of Washington and this District selling “HEIRLOOM” branded coffee.

**FIRST CLAIM FOR RELIEF**  
**(Infringement of Registered Trademark)**

9. Plaintiff realleges and incorporates the allegations set forth in paragraphs 1 through 8 above.

10. The registration for Plaintiff's trademark for HEIRLOOM® is presumed valid because of its registration on the Principal Register of the USPTO under Section 2 of the Trademark Act, 15 U.S.C. § 1052.

11. Defendant's unauthorized use of the HEIRLOOM mark on or in connection coffee is likely to cause confusion because the relevant consuming public is likely to believe that Defendant's goods emanate from, are sponsored by, or are authorized by Plaintiff.

12. On information and belief, Defendant had knowledge of Plaintiff's prior use and registration of Plaintiff's HEIRLOOM® trademark for coffee, but, nevertheless, used and continues to use Plaintiff's trademark without authorization and in disregard of Plaintiff's rights.

13. On information and belief, Defendant's infringement of Plaintiff's trademark was and is willful with the intent of trading on Plaintiff's goodwill and reputation.

14. Defendant's infringement of Plaintiff's trademark has irreparably damaged Plaintiff's valuable goodwill and has adversely affected Plaintiff's ability to engage in business in commerce selling coffee bearing the HEIRLOOM® trademark and, unless enjoined, will continue to adversely affect Plaintiff's business conducted in connection with this trademark.

15. On information and belief, Defendant has profited from the unauthorized use of Plaintiff's trademark.

16. Plaintiff has suffered the loss of sales and profits that Plaintiff would have made but for Defendant's acts.

1 17. The above-described acts of Defendant constitute trademark infringement in  
2 violation of 15 U.S.C. § 1114(1)(a). Defendant's actions are willful. Plaintiff is entitled to and  
3 therefore demands damages under 15 U.S.C. § 1117 together with costs and attorney's fees.  
4

5 **SECOND CLAIM FOR RELIEF**  
6 **(False Designation of Origin)**

7 18. Plaintiff realleges and incorporates the allegations set forth in paragraphs 1 through  
8 17 above.

9 19. Defendant's use of Plaintiff's trademark constitutes false designation of origin in  
10 violation of 15 U.S.C. § 1125(a). Defendant has used Plaintiff's trademark in a way that is likely  
11 to cause confusion, mistake and deception among the public and trade, all of whom will be led  
12 to erroneously believe that Defendant's goods are produced, provided by, approved of, or  
13 otherwise affiliated or associated with Plaintiff.  
14

15 20. On information and belief, in selecting and continuing to use Plaintiff's trademark  
16 in connection with its goods, Defendant intends to misrepresent the origin of the goods and to  
17 trade on Plaintiff's goodwill and reputation.  
18

19 21. Plaintiff has no adequate remedy of law. By misappropriating Plaintiff's  
20 trademark, Defendant has irreparably injured and is likely to continue to irreparably injure  
21 Plaintiff's business reputation, and Plaintiff is entitled to and therefore requests that a permanent  
22 injunction be entered under 15 U.S.C. § 1116. Plaintiff is entitled to and further demands that  
23 all infringing goods and articles be destroyed as permitted by 15 U.S.C. § 1118.  
24

25 **THIRD CLAIM FOR RELIEF**  
26 **(Unfair Competition RCW 19.86.010 et seq.)**

27 22. Plaintiff realleges and incorporates the allegations set forth in paragraphs 1  
28 through 21 above.

1           23. This claim arises under the Washington Consumer Protection Act, RCW  
2 19.86.010 *et seq.* and the common law.

3           24. The acts of Defendant as alleged herein constitute unfair methods of competition  
4 and unfair or deceptive acts or practices in the conduct of trade or commerce under RCW  
5 19.86.020 in respect to selling, offering to sell and marketing goods under the HEIRLOOM mark  
6 in the state of Washington. Defendant's violations of the Consumer Protection Act are harmful  
7 to the public interest. Defendant's misuse of the HEIRLOOM trademark has and has had the  
8 capacity to harm other persons.  
9

10           25. As a result of the foregoing violations of the Consumer Protection Act, Plaintiff  
11 has suffered severe and irreparable injury and damages, as well as costs and attorney's fees.  
12

13           26. This Court should award Plaintiff injunctive relief as well as an award of damages  
14 as determined at trial, which should be trebled in the discretion of the Court, along with costs of  
15 suit and Plaintiff's attorney's fees.  
16

17                                   **PRAYER FOR RELIEF**

18           WHEREFORE, Plaintiff prays:

19           A. For an award of damages pursuant to 15 U.S.C. § 1117;

20           B. For injunctive relief pursuant to 15 U.S.C. § 1116;

21           C. For an Order directing destruction of all infringing goods pursuant to 15 U.S.C.  
22 § 1118;  
23

24           D. For damages pursuant to R.C.W. 19.86.020, including enhanced damages as  
25 provided therein;

26           E. For an award of attorney's fees and costs of suit pursuant to 15 U.S.C. § 1117 and  
27 R.C.W. 19.86.090; and  
28

1 F. For such other relief as the Court deems just and equitable.

2 DATED: July 18, 2014.

3 By: /s/ Rex B. Stratton

4 Rex B. Stratton, WSBA No. 1913

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